

**BOARD OF APPEALS CASE NO. 5170**

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**BEFORE THE**

**APPLICANTS: Daniel & Betty Pabis**

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**ZONING HEARING EXAMINER**

**REQUEST: Variance to enclose an existing  
lower deck within the required side yard setback;  
906 Winters Court, Bel Air**

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**OF HARFORD COUNTY**

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**Hearing Advertised**

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**Aegis: 9/26/01 & 10/3/01**

**HEARING DATE: November 14 , 2001**

**Record: 9/28/01 & 10/5/01**

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## **ZONING HEARING EXAMINER'S DECISION**

The Applicants, Daniel and Betty Pabis and Patio Enclosures, Inc., are requesting a variance, pursuant to Section 267-36B, Table VI, of the Harford County Code, to enclose an existing deck within the required 8 foot side yard setback (six feet, five inches proposed) in an R3/Urban Residential District.

The subject parcel is located at 906 Winters Court, Bel Air, Maryland 21014 and is more particularly identified on Tax Map 48, Grid 1E, Parcel 86, Lot 381. The parcel consists of 0.17 acres more or less, is zoned R3 and is entirely within the Third Election District.

At the onset of the hearing, the Hearing Examiner modified the application to indicate that the Applicants were Daniel and Betty Pabis and not Patio Enclosures, Inc., as the property owner is the appropriate party to be named in zoning requests.

Mr. Daren Harbaugh appeared as representative of Patio Enclosures, Inc. The witness stated that the property is improved by a two-story deck and attached deck with gazebo. The existing deck is six (6) feet from the property line and was built to line up with the walk out basement door on the ground level and the walkout on the first living floor of the home. The house itself is not squared to the property line which reduces the side yard distance and results in the need for this request. The enclosure proposed will be exactly the same size as the existing deck and will not have any adverse impacts on adjacent properties.

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The house sits on a reverse corner lot, that is, to the rear of the house is a corner-like road configuration; consequently, the houses next door are set away from the Applicants' parcel. The three house configuration is much like a "V" with the subject house in the point of the "V" with the front facing the open end of the "V", and adjacent properties left and right. The location of the enclosure will, as a result have no adverse impact on the nearest house. To the rear of the house is Brentwood Park Road.

The Applicant, Betty Pabis, appeared and testified that she purchased the property 4-1/2 years ago. The decks existed at the time of purchase. She proposes to enclose the lower deck area to allow all-season use of that area including all year use of a spa located in that area. The witness described the double row of pine trees planted to the rear of the house which provides screening from Brentwood Park Drive and residences located there.

The Department of Planning and Zoning recommends approval of the request, finding that unique conditions exist on the property that no adverse impacts will be associated with the enclosure and the purpose of the zoning ordinance will not be obfuscated by a grant of the request.

### **CONCLUSION:**

The Applicants, Daniel and Betty Pabis, are requesting a variance, pursuant to Section 267-36B, Table VI, of the Harford County Code, to enclose an existing deck within the required 8 foot side yard setback (six feet, five inches proposed) in an R3/Urban Residential District.

Harford County Code Section 267-11 permits variances and provides:

"Variances from the provisions or requirements of this Code may be granted if the Board finds that:

- (1) By reason of the uniqueness of the property or topographical conditions, the literal enforcement of this Code would result in practical difficulty or unreasonable hardship.
- (2) The variance will not be substantially detrimental to adjacent properties or will not materially impair the purpose of this Code or the public interest."

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The Hearing Examiner agrees with the Applicant and the Department of Planning and Zoning that the property is uniquely configured. To the rear, the “V” like configuration and angling of the house tend to bring the property lines in close to the structure of the house. The decks existing are aligned with existing walkout doors and relocation is neither possible or practical. Because of the placement of adjoining homes and the location of Brentwood Park Drive to the rear, the Hearing Examiner finds that no adjacent or neighboring property will be adversely impacted as a result of the requested enclosure. Since the purpose of the Code is to avoid the placement of structures so close to adjoining properties as to result in an obtrusive use, the absence of those conditions allows the integrity of the purpose of the Code to be maintained.

For the foregoing reasons, the Hearing Examiner recommends approval of the subject request, provided the Applicants obtaining any and all necessary permits and inspections.

Date        NOVEMBER 27, 2001

William F. Casey  
Zoning Hearing Examiner